

**REMARKS**

Upon entry of the instant Amendment, Claims 1-5, 7-9, and 11-16 are pending. Claim 6 and 10 have been canceled. Claims 3, 7, 11, and 15 have been amended into independent form to include all the limitations of the base claim and any intervening claims. Claims 1, 2, 5, 9, 13 and 14 have been amended to more particularly point out Applicants' invention.

Applicants gratefully acknowledge that claims 3-4, 7-8, 11-12, and 15-16 were indicated to be allowable if amended into independent form and to include all the limitations of the base claim and any intervening claims. Claims 3, 7, 11, and 15 have been so amended. As such, these claims, and their dependent claims are believed allowable.

Claims 9 and 10 were rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al., U.S. Patent No. 6,282,264 B1 ("Smith"). In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Smith. As discussed in the specification, a portal imaging device positioning apparatus according to an embodiment of the present invention includes a portal imaging device positioner attachable to a support such as a telescoping boom. The portal imaging device positioner is adapted to vertically adjust an imaging panel in a either a treatment or dosimetry mode to receive radiation that has passed through a body in the patient plane, and adjust the panel in a physics mode to receive radiation at the patient plane.

Claim 10 has been canceled. Claim 9 has been amended to recite:

a radiation delivery apparatus; and  
means for deploying an imaging panel in a first mode to receive radiation from said apparatus below a patient plane and in a second mode at said patient plane; said deploying means comprising a vertical drive unit adjustably attachable at a mounting cavity to a telescoping support; and a mounting unit

adjustably attachable to said vertical drive unit, and adapted to deploy said imaging panel from a vertical position to a horizontal position

In contrast, Smith provides an x-ray detector 34 supported by an arm 30/112 for use in a diagnostic system. While the detector appears to be able to rotate about the arm 30/112, it does not appear to be telescopically attached to the arm (i.e., detector 34 does not appear to be able to be extended "out" from the support 20 along arm 30), as generally recited in the claim at issue. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 1, 2, 5, 6, and 13-14 were rejected under 35 U.S.C. 103 as being unpatentable over Hughes, U.S. Patent No. 5,754,622 ("Hughes") in view of Smith. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Hughes or Smith, either singly or in combination.

As discussed above, one aspect of the present invention relates to a portal imaging device positioning apparatus including a portal imaging device positioner attachable to a support such as a telescoping boom. The portal imaging device positioner is adapted to vertically adjust, with reference to the boom, an imaging panel in either a treatment or dosimetry mode to receive radiation that has passed through a body in the patient plane, and adjust the panel in a physics mode to receive radiation at the patient plane. Claim 1 and 2 have been amended to recite "a telescoping support attachable to said gantry" Claim 5 has been amended to recite "temporarily securing a vertically positioned imaging panel to a telescoping support;" claims 13 and 14 have been amended to recite "providing a telescoping support attachable at a first end to a treatment gantry."

As acknowledged in the Official Action, Hughes does not relate, inter alia, to vertically-adjustable portal imaging device positioner; Smith is relied on for such teaching. Neither reference, however, appears to teach vertically adjusting with reference to a telescoping support (or boom), as generally recited in the claims at issue.

Serial No.: 10/053,283

Attorney Docket No.: 01P19665US

Hughes does not appear to be vertically-adjustable, and Smith, as discussed above, appears to rotate but does not appear to telescope. Furthermore, with reference more specifically to claims 2 and 14, neither reference appears to provide a vertical drive unit attachable to a telescoping support, as generally recited in those claims. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully requested,

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8/22/05  
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